84-896

(3)

Office - Supreme Court, U.S.
FILED
DEC 4 1984
ALEXANDER L. STEVAS.
CLERK

NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1984

In re HENRY ANDERSON

PETITION FOR WRIT OF MANDAMUS

TO THE SUPREME COURT OF OREGON

EDWIN J. PETERSON, JUDGE, RESPONDENT

PETITION FOR WRIT OF MANDAMUS AND BRIEF IN SUPPORT THEREOF

WRIT OF MANDAMUS

Henry Anderson
676 Covey Road
Valley Springs
Ca. 95252
Petitioner

14pp

QUESTIONS PRESENTED FOR REVIEW

I. Why has petitioner been discriminated against by respondent Oregon State Supreme Court, and deprived of his United States Constitutional Rights to Trial by Jury in Civil Cases?

2. Why has petitioner been discriminated against by respondent, and deprived of his United States Fourteenth Amendment Rights to Equal Protection of the Laws?

3. Why has petitioner been discriminated against by respondent, and deprived of his United States Fourteenth Amendment Rights to Due Process of Law?

4. Why has petitioner been discriminated against by respondent, and deprived of his "inviolate" right to Trial by Jury as given in Article I, Section I7, of the Oregon State Constitution?

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW	I
TABLE OF CONTENTS	2
TABLE OF AUTHORITIES	3
JURISDICTIONAL STATEMENT	4
CONSTITUTIONAL PROVISIONS	4
CONSTITUTIONAL PROVISIONS CONTINUED	5
STATEMENT OF THE CASE	6, 7
ARGUMENT	8
WRIT OF MANDAMUS	9
APPENDIX	
COURT JUDGEMENT, EXHIBIT I	I0
ORDER DENYING REHEARING, EXHIBIT 2	II
COURT LETTER, EXHIBIT 3	I2
CERTIFICATE OF SERVICE	I3

TABLE OF AUTHORITIES

BEACON-THEATRES V WESTOVER, 359, U.S. 500, 5II.

DIMICK V SCHIEDT, 293 U.S. 474, 486.

In BEACON-THEATRES V WESTOVER, 359, U.S. 500, 5II, the Court stated, "the right to grant mandamus to require jury trial where it has been improperly denied is settled."

In DIMICK V SCHIEDT, 293, U.S. 474, 486, the Court said "Maintainance of the jury as a fact-finding body is of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right to a jury trial should be scrutinized with the utmost care."

JURISDICTIONAL STATEMENT

Date of judgement of the Supreme Court of Oregon was August 3I, I984.

Date of denial of petition for rehearing by Oregon State Supreme Court was September I8th, I984.

The Court has the power under 28 U.S.C. Section I65I (a) to grant the writ of mandamus in aid of the Court's appellate jurisdiction.

CONSTITUTIONAL PROVISIONS

ARTICLE VI., CLAUSE 2.

This Constitution, and the laws of the United States which shall be made in pursuance thereof,. . . shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

CONSTITUTIONAL PROVISIONS CONTINUED

VII. AMENDMENT. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,. . .

XIV AMENDMENT, in part.

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor to deny to any person within its jurisdiction the equal protection of the law.

OREGON STATE CONSTITUTION

ARTICLE I, SECTION I7.

In all civil cases the right of Trial by Jury shall remain inviolate.

OREGON RULES OF CIVIL PROCEDURE

RULE 50. JURY TRIAL OF RIGHT, The right of trial by jury as declared by the Oregon Constitution or as given by a statute shall be preserved to the parties inviolate.

STATEMENT OF THE CASE

Petitioner as the defendant, was deprived of his U.S. Constitutional Right to Trial by Jury, Equal Protection of the Law & Due Process of Law by the Baker County Court in a civil action at Baker, Oregon. Petitioner lost his lifes savings & his property as a result of those illegal, prejudicial acts of the court. Petitioner raised the matter of deprivation of trial by jury, at the first court hearing & has continued to do so at all times since then.

Petitioner had no adequate remedy at law to combat those illegal court actions, and filed a petition for writ of mandamus on July 27, I984 in the Oregon State Supreme Court for relief against the Baker court.

On August 3I, I984, respondent court denied that petition. A copy of that order is attached hereto as exhibit I.

Petitioner filed a petition for rehearing on Sept. I0, I984 with respondent, which the court denied on Sept. I8, I984.

A copy of that order is attached hereto as exhibit 2.

Notwithstanding the plain duty imposed on respondents by law, & notwithstanding the demand of petitioner that respondents perform their legal duties, respondents have failed & refused & will continue to fail & refuse to do their mandatory duties as set forth in the United States Constitution and laws, unless they are ordered to do so by this Court.

Petitioner having no further remedy at law to convince respondent court to act, has now filed this petition for writ of mandamus, in this U.S. Supreme Court.

Petitioner in accordance with the rules has kept this petition as short as possible, by only giving the essentials of the controversy. There is a great quantity of evidence & records to support this petition, which can be made available to the Court if it is needed.

ARGUMENT

There can be no argument about the existance of the United States Constitution. Nor can there be any argument about the obligations of respondents to know and act in accordance with that Constitution. Nor can there be any argument about the prejudice & discrimination practiced against petitioner that is shown by the records and evidence.

What is left is not argument, but wonder, why have respondents neglected their duties and ignored the prejudice & discrimnatory acts of subordinates? In any class of subordinates there are always some with limited mental & moral powers, whose wrongful actions must be corrected from time to time.

There can be no argument that the passage of time transmutes an illegal court action into a legal action, the discrimnatory acts were illegal when they were done and will always be illegal & should be cancelled.

Respondents should be reminded by this Court of their duties and if they hesitate in doing them, must be ordered to do them.

WRIT OF MANDAMUS

WHEREFORE, petitioner prays:

I. That a writ of mandamus issue from this Court directed to the Honorable Oregon State Supreme Court, and to the Honorable Edwin J. Peterson, Chief Justice of said Court, to show cause on a day to be fixed by this Court why petitioner has been deprived of his United States Constitutional Right to Trial by Jury, his Right to Equal Protection of the Law, his Rights to Due Process of Law & his Oregon State Constitutional Right to Trial by Jury;

2. Why mandamus should not issue from this Court directing said Honorable Edwin J. Peterson to vacate & expunge from the record the unconstitutional discrimnatory orders of the Baker County Circuit Court;

3. That petitioner should have such additional relief & process as may be necessary & appropriate in the premises.

Respectfully submitted

Henry Anderson

Henry Anderson, petitioner

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON ex rel HENRY ANDERSON, Plaintiff-Relator, v. BAKER COUNTY CIRCUIT COURT, STATE OF OREGON, Defendant.	)	Baker Circuit Court No. 84-125 SC S30961 **ORDER DENYING PETITION FOR WRIT OF MANDAMUS**

The Court has considered relator's petition for writ of mandamus and ORDERS that the petition be denied.

Dated this 31st day of August, 1984.

Edwin J. Peterson
Chief Justice

APPENDIX EXHIBIT I.

10.

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON ex rel HENRY ANDERSON,	)	
	)	Baker Circuit
	)	Court No. 84-063
Plaintiff-Relator,	)	
	)	
v.	)	SC S31061
	)	
BAKER COUNTY CIRCUIT COURT,	)	**ORDER DENYING**
	)	**PETITION FOR**
Defendant.	)	**WRIT OF MANDAMUS**

The Court has considered relator's petition for writ of mandamus and ORDERS that the petition be denied.

Dated this 18th day of September, 1984.

Chief Justice

APPENDIX EXHIBIT 2.

II.

APPENDIX EXHIBIT 3 I2.

SUPREME COURT
Edwin J. Peterson
Chief Justice

Salem, Oregon 97310
Telephone 378-6026

October 5, 1984

BEST AVAILABLE COPY

Michael Rodak, Jr.
Clerk
Supreme Court of the United States
1 Fir Street N.E.
Washington, D.C. 20543

Re: Henry Anderson, Petitioner
v. Edwin J. Peterson, Judge,
Respondent. Oregon State
Supreme Court

In accordance with Supreme Court Rule 27.2(b) and Rule 21(b) of the Federal Rules of Appellate Procedure, I will make no appearance in response to the petition unless requested to do so by the court.

Sincerely,

Edwin J. Peterson
Chief Justice

EJP:fw
cc: Henry Anderson
676 Covey Road
Valley Springs, California 95252

CERTIFICATE OF SERVICE

I, Henry Anderson, petitioner in this matter certify that on November 28th I984, I served 3 exact copies of the foregoing Petition for Writ of Mandamus on respondent EDWIN J. PETERSON, by mailing them by certified mail, return receipt requested, with postage fully prepaid to the:

COURT ADMINISTRATOR
SUPREME COURT BUILDING
SALEM, OREGON, 973IO

BY: Henry Anderson
Henry Anderson
Petitioner.